

FILED
APR 21 2009
By PATRICK E. DUFFY, CLERK
DEPUTY CLERK, MISSOULA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,)	CR 08-69-M-DWM
)	
Plaintiff,)	
)	
vs.)	ORDER
)	
EPIFANIO ZUNIGA,)	
)	
Defendant.)	
_____)	

United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation in this matter on April 7, 2009. Neither party objected and therefore they are not entitled to de novo review of the record. 28 U.S.C. § 636(b)(1); United States v. Reyna-Tapia, 328 F.3d 1114, 1121 (9th Cir. 2003). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313

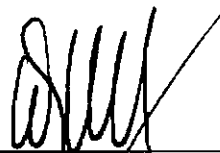
(9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

Judge Lynch recommended this Court accept Epifanio Zuniga’s guilty plea after Zuniga appeared before him pursuant to Federal Rule of Criminal Procedure 11, and entered his plea of guilty to one count of possession with intent to distribute methamphetamine in violation of 21 U.S.C. § 841(a)(1).

I find no clear error in Judge Lynch’s Findings and Recommendation (dkt # 22) and I adopt them in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report.

IT IS HEREBY ORDERED that Epifanio Zuniga’s Motion to Change Plea (dkt # 14) is GRANTED.

DATED this 21st day of April, 2009.



Donald W. Molloy, District Judge
United States District Court